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9 Attorneys for Defendants Polo Ralph Lauren
10 Corporation; Polo Retail, LLC; Polo Ralph Lauren Corporation,
doing business in California as Polo Retail Corporation; and
11 Fashions Outlet of America, Inc.

12
13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15

16 ANN OTSUKA, an individual and on behalf
of all others similarly situated; JANIS
17 KEEFE, an individual; CORINNE PHIPPS,
and individual; JUSTIN KISER, an
18 individual; and RENEE DAVIS,

19 Plaintiff,

20 v.

21 POLO RALPH LAUREN CORPORATION;
POLO RETAIL, LLC; POLO RALPH
LAUREN CORPORATION, DOING
22 BUSINESS IN CALIFORNIA AS POLO
RETAIL CORPORATION; AND
23 FASHIONS OUTLET OF AMERICA, INC.,

24 Defendants.
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Case No. C07-02780 SI

**NOTICE OF MOTION AND MOTION FOR
DECERTIFICATION OF PLAINTIFFS' REST
BREAK CLASS**

Date: October 10, 2008
Time: 9:00 a.m.
Dept.: Courtroom 10, 19th Floor
Judge: Hon. Susan Illston

1 TO PLAINTIFFS AND TO THEIR ATTORNEYS OF RECORD:

2 NOTICE IS HEREBY GIVEN that on October 10, 2008 at the hour of 9:00 a.m., or as soon
 3 thereafter as this matter may be heard in Department 10 of the above-entitled court located at 450
 4 Golden Gate Avenue, San Francisco, California, Defendants Polo Ralph Lauren Corporation; Polo
 5 Retail, LLC; Polo Ralph Lauren Corporation, doing business in California as Polo Retail
 6 Corporation; and Fashions Outlet of America, Inc. (collectively, "Polo") will move this court for an
 7 order decertifying Plaintiffs' class with respect to rest break claims.

8 This motion will be made on the grounds that the July 22, 2008 decision by the Fourth
 9 Appellate District Court of Appeal in *Brinker Restaurant Corporation v. The Superior Court of San*
 10 *Diego County (Hohnbaum)*, ___ Cal.App. 4th ___, 2008 WL 2806613 represents a significant shift in
 11 California law with regard to the circumstances under which rest breaks classes may be certified.
 12 This change in the substantive law governing rest breaks justifies decertification of the rest break
 13 class certified by this Court in its July 8, 2008 Order.

14 This motion will be based on the Notice of Motion and Motion herein, the Memorandum of
 15 Points and Authorities filed concurrently herewith, all other pleadings and files in this matter, and
 16 such other and further argument which may be presented at the hearing on this matter.

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 18 Dated: August 18, 2008.

GREENBERG TRAURIG, LLP

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 20 By: /s/ William J. Goines

William J. Goines

Jeremy A. Meier

Alisha M. Louie

21
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 23 Attorneys for Defendants Polo Ralph
 24 Lauren Corporation; Polo Retail, LLC; Polo
 25 Ralph Lauren Corporation, doing business in
 26 California as Polo Retail Corporation; and
 27 Fashions Outlet of America, Inc
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